

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Criminal Justice Committee

BILL: CS/SB 278

INTRODUCER: Criminal Justice Committee and Senator Rich

SUBJECT: Lifeguards/Assault or Battery

DATE: February 23, 2008 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Fav/CS
2.			JA	
3.				
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

The bill would add Lifeguards to the list that provides enhanced criminal penalties for assaulting or battering certain enumerated persons under s. 784.087, F.S. Currently this section reclassifies the felony or misdemeanor degree of assault and battery offenses committed against a law enforcement officer, firefighter, and other specified persons.

This will have the effect of increasing the maximum sentence that can be imposed for an assault or battery offense committed against a lifeguard in the same manner as if the offense were committed against a law enforcement officer or firefighter.

This bill would substantially amend section 784.07, F.S. The bill amends sections 435.04, 901.15, 943.051 and 985.11, F.S., by inserting conforming language and amends the offense severity ranking chart in section 921.0022, F.S., to include the offense.

II. Present Situation:

Currently, s. 784.07, F.S., provides that when a person is charged with knowingly committing assault¹, aggravated assault², battery³, or aggravated battery⁴ against a law enforcement officer,⁵ firefighter,⁶ emergency medical care provider,⁷ traffic accident investigation officer, certain nonsworn law enforcement personnel, security officer⁸ traffic infraction enforcement officer, parking enforcement specialist,⁹ or security officer employed by the board of trustees of a community college while the officer, firefighter, or emergency medical care provider is engaged in the lawful performance of his or her duties, the assault or battery offense is reclassified as follows:

- In the case of assault, from a misdemeanor of the second degree to a misdemeanor of the first degree.
- In the case of battery, from a misdemeanor of the first degree to a felony of the third degree.
- In the case of aggravated assault, from a felony of the third degree to a felony of the second degree.
- In the case of aggravated battery, from a felony of the second degree to a felony of the first degree.

Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for an offense. The maximum sentence that can be imposed for a criminal offense is generally

¹ An assault is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent. s. 784.011, F.S.

² An aggravated assault is an assault with a deadly weapon without intent to kill or with an intent to commit a felony. s. 784.021, F.S.

³ A battery occurs when a person actually and intentionally touches or strikes another person against the will of the other or intentionally causes bodily harm to another person. s. 784.03, F.S.

⁴ An aggravated battery occurs when a person in committing battery intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or uses a deadly weapon. Aggravated battery also occurs if the victim of the battery was pregnant at the time of the offense and the offender knew or should have known that the victim was pregnant. s. 784.045, F.S.

⁵“Law enforcement officer” includes a law enforcement officer, a correctional officer, a correctional probation officer, a part-time law enforcement officer, a part-time correctional officer, an auxiliary law enforcement officer, and an auxiliary correctional officer, as those terms are respectively defined in s. 943.10, F.S., and any county probation officer; employee or agent of the Department of Corrections who supervises or provides services to inmates; officer of the Parole Commission; and law enforcement personnel of the Fish and Wildlife Conservation Commission, the Department of Environmental Protection, or the Department of Law Enforcement. s. 784.07(1)(a), F.S.

⁶ “Firefighter” means any person employed by any public employer of this state whose duty it is to extinguish fires; to protect life or property; or to enforce municipal, county, and state fire prevention codes, as well as any law pertaining to the prevention and control of fires. s. 784.07(1)(b), F.S.

⁷ “Emergency medical care provider” means an ambulance driver, emergency medical technician, paramedic, registered nurse, physician as defined in s. 401.23, F.S., medical director as defined in s. 401.23, F.S., or any person authorized by an emergency medical service licensed under ch. 401, F.S., who is engaged in the performance of his or her duties. The term “emergency medical care provider” also includes physicians, employees, agents, or volunteers of hospitals as defined in ch. 395, F.S., who are employed, under contract, or otherwise authorized by a hospital to perform duties directly associated with the care and treatment rendered by the hospital’s emergency department or the security thereof. s. 784.07(1)(c), F.S.

⁸ s. 493.6101, F.S.

⁹ s. 316.640, F.S.

based on the degree of the misdemeanor or felony. The maximum sentence for a second degree misdemeanor is sixty days incarceration; for a first degree misdemeanor, it is one year incarceration; for a third degree felony, it is five years imprisonment; for a second degree felony, it is fifteen years imprisonment; and for a first degree felony, it is thirty years imprisonment.¹⁰

III. Effect of Proposed Changes:

The bill would add Lifeguards to the list that provides enhanced criminal penalties for assaulting or battering certain enumerated persons under s. 784.087, F.S. Therefore, an assault or battery offense committed against a lifeguard, as defined in the bill, while he or she is engaged in the lawful performance of his or her duties, would be reclassified one degree higher than it is currently classified (see Present Situation).

This would have the effect of increasing the maximum sentence that could be imposed for an assault or battery offense committed against a lifeguard in the same manner as if the offense were committed against a law enforcement officer or firefighter.

The term “Lifeguard” is defined in the bill as “a lifeguard employed along the coastal or intracoastal beaches and shores of the state, or other bodies of water of the state, or at swimming pools to help prevent injury or drowning of persons.”

There are amendments to ss. 435.04, 901.15, 943.051, and 985.11, F.S., to change certain references from “officers” to “persons.” Pertinent parts of the offense severity ranking chart are reenacted.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁰ s. 775.082, F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Although the Criminal Justice Impact Conference has not considered this bill at the time of the writing of this analysis, committee staff expects the fiscal impact of this bill to be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Additional Information:

A. Committee Substitute – Statement of Substantial Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on January 23, 2008:

The application of the original bill to “ocean lifeguards” was expanded to include the more generic term “lifeguards,” therefore the definition was amended to incorporate lifeguards employed at other bodies of water of the state or swimming pools for the purpose of helping to prevent injury or drowning.

A technical amendment was adopted which corrected an error in data transmittal between the House and the Senate that was reflected in the Offense Severity Ranking Chart on lines 180 and 263 of the original bill.

B. Amendments:

None.